

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICK GREER

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC.

Defendant.

Case No.

COMPLAINT
AND JURY DEMAND

PRELIMINARY STATEMENT

1. This is an action brought for damages for violations of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

PARTIES

2. Plaintiff, Rick Greer, is a natural person residing in Clark County, Washington, during all times relevant to this action.

- 1 3. Defendant, OCWEN LOAN SERVICING, LLC, (“Ocwen”) is a collection agency
2 incorporated in Delaware and licensed in Washington state, engaged in the business of
3 collecting debts.

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5 **JURISDICTION AND VENUE**

- 6 4. This Court has jurisdiction over Plaintiff’s TCPA claim pursuant to 47 U.S.C. §
7 227(b)(3) and 28 U.S.C. §1331.
8 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) in that the
9 plaintiff resides here and the conduct complained of occurred here.
10 6. All conditions precedent to the bringing of this action has been performed.

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12 **FACTUAL ALLEGATIONS**

- 13 7. On or about February 7, 2012 Ocwen made the first of one hundred seventy nine (179)
14 calls to Plaintiff’s cellular phone number 360-901-14XX from phone numbers 800-
15 850-4622 and 800-746-2936. Upon information and belief, said numbers are used by
16 Ocwen in its debt collection activities.
17 8. Ocwen made at least one hundred seventy nine (179) calls to Plaintiff’s cellular phone
18 beginning February 7, 2012 and continuing through January 21, 2015.
19 9. The calls from Ocwen to Plaintiff’s cellular phone number 360-901-14XX occurred on
20 the following dates and times. *See Exhibit 1.*
21 10. Upon information and belief, per its prior business practices, each of Ocwen’s one
22 hundred seventy nine (179) collection calls were placed using an automatic telephone
23 dialing system.
24 11. Upon information and belief, Defendant uses equipment with the capacity to be used
25 as an “automated telephone dialing system.”
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- 1 12. Upon information and belief, Defendant placed all calls to Plaintiff's cellular phone
- 2 voluntarily and of its own free will.
- 3 13. Defendant's calls constituted calls that were not for emergency purposes as defined by
- 4 47 U.S.C. § 227(b)(1)(A).
- 5 14. Defendant's calls were placed to a telephone number assigned to a cellular telephone
- 6 service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §
- 7 227(b)(1).
- 8 15. Plaintiff was the subscriber to the called number and the sole person having custody of
- 9 the cellular phone.
- 10 16. Plaintiff's cellular telephone number was never provided to Defendant and Plaintiff
- 11 never provided consent, express or otherwise, to Defendant to be contacted on
- 12 Plaintiff's cellular telephone.
- 13 17. Accordingly, Defendant never received Plaintiff's "prior express consent" to receive
- 14 calls using an automatic telephone dialing system or an artificial or prerecorded voice
- 15 on Plaintiff's cellular telephone, pursuant to 47 U.S.C. 227(b)(1)(A).
- 16 18. Plaintiff sent to Ocwen, via certified mail, a qualified written request, dated June 3,
- 17 2013, requesting any further communication to be in writing and to not call Plaintiff.
- 18 19. Plaintiff sent to Ocwen, via certified mail, a notice of dispute and validation of debt
- 19 letter, dated July 8, 2013, specifically revoking any prior permission Defendant may
- 20 have believed Plaintiff granted to Ocwen that would allow Ocwen to make any calls to
- 21 Plaintiff's cellular telephone.
- 22 20. Plaintiff's above noted letters revoked any prior permission Ocwen may have believed
- 23 they had to call Plaintiff's cellular phone.
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- 1 21. On both occasions, after receiving notice to cease calling Plaintiff, Ocwen continued to
2 call Plaintiff.
- 3 22. Plaintiff answered several of Ocwen's phone calls in an attempt to instruct Ocwen to
4 stop calling Plaintiff.
- 5 23. On many occasions when Plaintiff answered Ocwen's calls the calls would
6 immediately be disconnected.
- 7 24. Plaintiff sent to Ocwen, via certified mail, a Notice of Pending Lawsuit letter, dated
8 January 29, 2015, in an effort to mitigate damages and settle all claims prior to
9 litigation. No response was received by Plaintiff to said notice.
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12 **COUNT I**

13 **VIOLATIONS OF THE TELEPHONE CONSUMER**
14 **PROTECTION ACT (TCPA), 47 U.S.C. § 227(b)(1)(A)(iii)**
15 **BY DEFENDANT OCWEN LOAN SERVICING, LLC**

- 16 25. Paragraphs 1 through 24 are re-alleged as though fully set forth herein.
- 17 26. Upon information and belief, Defendant knowingly and intentionally used an
18 "automatic telephone dialing system," as defined by 47 U.S.C. § 227(a)(1), to place its
19 repeated collection calls to Plaintiff, seeking to collect a debt allegedly owed.
- 20 27. Upon information and belief, Defendant maintains business records that will show all
21 call's Defendant placed to Plaintiff's cellular telephone.
- 22 28. This complaint is brought within the statute of limitations pursuant to 47 U.S.C. § 227.
- 23 29. Defendant's actions alleged *supra* constitute numerous negligent violations of the
24 TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and
25 every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
- 26 30. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
27 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
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1 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47
2 U.S.C. § 227(b)(3)(C).

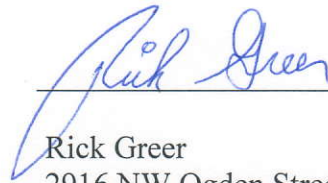
3 **WHEREFORE**, Plaintiff demands judgment be entered against Ocwen Loan Servicing, LLC
4 for statutory damages of \$500 for each and every negligent violation of the TCPA pursuant to
5 47 U.S.C. § 227(b)(3)(B); statutory damages of \$1500.00 for each and every knowing and/or
6 willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);
7 fees, costs, any post-judgment interest that may be allowed by law and any further relief the
8 Court may deem just and proper.
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11 Plaintiff requests for leave to amend this complaint as needed and as required.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

14 Respectfully submitted this 15th day of January, 2016.
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